

REQUEST FOR APPROVAL

To: Howard Levenson
Deputy Director

From: Cara Morgan
Branch Chief

Request Date: April 20, 2012

Decision Subject: State Agency and Large State Facility 2009/2010 Biennial Report
Review Findings

Action By: May 15, 2012

Summary of Request:

Staff is submitting the biennial report review findings for the 2009/2010 reporting period for the 395 reporting State agencies and large State facilities. Local Assistance and Market Development (LAMD) Branch staff conducted a review of the waste diversion activities reported by each State agency and large State facility. Through this review LAMD staff found that the vast majority of State agencies and large State facilities are fully implementing their programs and are meeting, or have made a good faith effort to meet, the statutory diversion requirements. Of the 395 reporting agencies, one agency is being recommended for a finding of non-compliance for not meeting the diversion requirement and the need to expand programs.

Recommendation:

Staff recommends approval of the biennial report review findings as noted below for 2009/2010 for the 395 reporting State agencies and large State facilities as listed in Attachments 1 through 4.

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve the biennial review findings for the 2009/2010 reports for the 395 State agencies and large State facilities as indicated below:

- Approve the finding that the 280 State agencies and facilities listed in Attachment 1 submitted full reports as required and are adequately implementing solid waste diversion programs and are compliant with statutory diversion requirements.
- Approve the finding that the 61 State agencies and facilities listed in Attachment 2 submitted modified reports as required and are adequately implementing solid waste diversion programs and are compliant with statutory diversion requirements.

- Approve the finding that the 53 State agencies and facilities listed in Attachment 3 submitted full reports as required and have made a good faith effort to be compliant with statutory diversion requirements.
- Approve the finding that the one large State facility listed in Attachment 4, Glendale Community College, is not adequately implementing solid waste diversion programs and is not compliant with statutory diversion requirements, and direct that this facility be referred to the Jurisdiction and Product Compliance Unit.

Dated: 5/15/12



Howard Levenson, Deputy Director

Attachments:

1. Attachment 1: Agencies/Facilities Submitting Full Reports (2010): Finding of Adequate Program Implementation and Compliance With Statutory Diversion Requirements
2. Attachment 2: Agencies/Facilities Submitting Modified Reports (2010): Finding of Adequate Program Implementation and Compliance with Statutory Diversion Requirements
3. Attachment 3: Agencies/Facilities Submitting Full Reports (2010): Finding of Good Faith Effort to Adequately Implement Programs
4. Attachment 4: Agencies/Facilities Submitting Full Reports (2010): Finding of Inadequate Program Implementation and Non-compliance with Statutory Diversion Requirements

Background Information, Analysis, and Findings

The State Agency Model Integrated Waste Management Act (Chapter 764, Statutes of 1999, Strom-Martin) took effect on January 1, 2000. Among other requirements, the Act mandated that State agencies develop and implement an integrated waste management plan. State agencies and large State facilities must divert at least 50 percent of their solid waste from disposal facilities by and after January 1, 2004. In addition, annually by September 1, each State agency and large facility must submit a report to CalRecycle that summarizes progress in implementing solid waste diversion programs.

In 2000, the California Integrated Waste Management Board approved a policy that provides an alternative reporting structure to those agencies that have fewer than 200 employees and generate less than 100 tons of waste annually. This alternative reporting structure is called a 'modified' annual report and allows State agencies that meet these criteria to submit information only on the types of on-going programs; they do not have to report total disposal. Under the modified annual

report structure, qualifying State agencies that have implemented the number and types of effective programs which represent the reasonable and feasible solid waste diversion opportunities available for that agency will be found in compliance with statutory diversion mandates.

In 2008, the Per Capita Disposal Measurement System Act (SB 1016, Wiggins, Public Resources Code Chapter 343, Statutes of 2008) was passed. This changed the way State agencies measure their progress toward meeting the statutory waste diversion mandate. Under this Act, State agencies are still required to maintain the 50 percent waste diversion requirement as required by the State Agency Integrated Waste Management Act. However, measurement of the 50 percent diversion requirement is based upon per capita disposal and is used as an indicator of agency/facility progress toward meeting the mandate.

Per policy adopted in 2007 by the California Integrated Waste Management Board (the oversight entity at the time), CalRecycle conducts an annual review of all reporting agencies/facilities. A biennial compliance review of selected agency/facility reports for which the submitted data indicate a likelihood of inadequate program implementation and/or non-compliance with statutory diversion mandates is also conducted. The biennial compliance review is CalRecycle's independent evaluation of each State agency's and large State facility's progress in implementing solid waste diversion programs and in meeting the statutory diversion requirement.

As a result of this review, CalRecycle may find that: 1) a State agency/large State facility has adequately implemented its diversion programs and has achieved the statutory diversion requirement; 2) a State agency/large State facility has made a good faith effort to implement diversion programs and achieve the statutory diversion requirement; or 3) a State agency/large State facility has failed to adequately implement solid waste diversion programs, and the process of compliance oversight should commence.

The following is a summary of the LAMD staff review process and findings for all reporting State agencies and large State facilities. There were 395 reporting agencies (334 with full reports and 61 with modified reports) in 2009 and 2010, and reports from both years, as well as prior years, were analyzed by LAMD staff for the purpose of determining disposal trends and program implementation history.

- **Agencies/Facilities Submitting Full Reports: Finding of Adequate Program Implementation and Compliance with Statutory Diversion Requirements (Attach. 1):**

Staff found 280 of the 334 State agencies and facilities that submitted full reports to be compliant with statutory diversion mandates. These agencies/facilities submitted reports that provide information on the diversion programs implemented and the total tons of material disposed by the reporting agencies/facilities. Each of these 280 agencies/facilities reported implementing its diversion programs and that the annual per capita disposal for the 2010 calendar year was less than the 50% equivalent per capita disposal target for the agency/facility. Staff review primarily consisted of an analysis of

the information submitted in the electronic annual report; site visits were not conducted in most instances.

- **Agencies/Facilities Submitting Modified Reports: Finding of Adequate Program Implementation and Compliance with Statutory Diversion Requirements (Attach. 2):**

Staff found that all 61 State agencies and facilities that submitted modified reports met the requirements of CalRecycle's alternative reporting structure, and are compliant with statutory diversion mandates. These agencies/facilities submitted reports that provide information on the diversion programs implemented by the reporting agencies/facilities. They do not report disposal totals and do not have a 50% equivalent per capita disposal target for their agency/facility. Staff review primarily consisted of an analysis of the information submitted in the electronic annual report, including an analysis to determine if the agency still meets the modified reporting criteria. Site visits were not conducted in most instances.

- **Agencies/Facilities Submitting Full Reports: Finding of Good Faith Effort to Adequately Implement Programs (Attach. 3):**

Staff found 53 of the 334 State agencies and facilities that submitted full reports to be adequately implementing solid waste diversion programs and making a good faith effort to be compliant with statutory diversion requirements. These agencies/facilities submitted reports that provide information on the diversion programs implemented and the total tons of material disposed by the reporting agencies/facilities.

Staff conducted a more in-depth review of these agencies/facilities because they reported annual per capita disposal for the 2010 calendar year that was in excess of the 50% equivalent per capita disposal target for their agency/facility or their disposal trends were higher than prior averages.

Staff review consisted of an analysis of the information submitted in the electronic annual report and, in some cases, one or more site visits to each of the State agencies/large State facilities to assess program implementation and effectiveness. Staff analyses indicate that the agencies exceeded their target for one of the following reasons:

- a. Construction and/or demolition activities increased overall disposal even though the agency/facility did divert a large quantity of the construction/demolition materials. These activities are limited in duration and staff believes that annual per capita disposal for the affected agencies/facilities will drop below the 50% per capita equivalent disposal target once construction and/or demolition activities are complete.
- b. The 2006 data upon which the 50% equivalent per capita disposal target is based are anomalous. For a variety of reasons, such as an agency reducing operations during 2006, the 2006 generation data submitted is much less than the general trend for a given agency/facility. Subsequently, the 50% per capita equivalent disposal target

that was calculated using that data is lower than would be expected given the historical trend.

- c. The data reported for the last calendar year is more accurate than the data that was reported in 2006 and used to calculate the 50% per capita equivalent disposal target. Due to high turnover rates among State agency recycling coordinators, the current recycling coordinator may be unable to verify the source and accuracy of the 2006 generation and disposal data or has found that it was underreported. Thus, more accurate reporting may result in the current reporting year per capita disposal exceeding 50% per capita equivalent disposal target.
- d. The employee and/or disposal data reported for the 2010 calendar was less accurate than the data reported in previous years. Due to high turnover rates among State agency recycling coordinators and a reduction of overall staff, the methodology used to calculate previous years data was difficult to determine. In many cases, data collection and extrapolation were unknown to the new State agency recycling coordinator, making it difficult to calculate accurate numbers for 2010. CalRecycle staff is providing ongoing technical assistance to rectify any reporting discrepancies
- e. Proactive program planning and implementation seemed to fail with the increased number of events and/or expansion or consolidation of agency facilities. In one or more cases, LAMD has provided on-site technical assistance and planning so the agencies recycling coordinators will be better prepared to address these situations.

Note: The date in attachment 3 reflects staff's review and any corrected disposal data.

- **Agencies/Facilities Submitting Full Reports: Finding of Inadequate Program Implementation and Non-compliance with Statutory Diversion Requirements (Attach. 4):**

Staff found that one of the 334 State agencies and large State facilities that submitted full reports, Glendale Community College, did not adequately implement diversion programs and was non-compliant with statutory diversion mandates.

Glendale Community College reported disposal for the 2010 calendar year that was in excess of the 50% equivalent per capita disposal target for its facility. Staff review consisted of an analysis of the information submitted in the electronic annual report and two site visits to the facility to assess program implementation and effectiveness. Despite their attempts to provide technical assistance, LAMD staff found that Glendale Community College has not made reasonable and feasible efforts to implement effective diversion programs. This is due in part to inadequate efforts to reduce disposal and inadequate record keeping of all material types by this facility in particular construction and demolition material. Therefore, since its diversion programs need further review, Glendale Community College is being referred to the Jurisdiction and Product Compliance Unit.

